

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS**

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| WESTERN NATIONAL MUTUAL INSURANCE COMPANY, |) | |
| |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. |
| |) | |
| QUALITY TRUCK & REEFER REPAIR INC., |) | |
| |) | |
| |) | |
| Respondent. |) | |

PETITION TO APPOINT UMPIRE

NOW COMES Petitioner, Western National Mutual Insurance Company, by and through its undersigned counsel, Law Offices of Amy E. Johnson, PLLC, and for its Petition to Appoint Umpire, alleges as follows:

THE PARTIES

1. Petitioner, Western National Mutual Insurance Company (“Western National”), is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business located at 4700 West 77th Street, Edina, Minnesota.

2. At all times relevant, Respondent, Quality Truck & Reefer Repair, Inc. (“Quality Truck”), was a corporation organized and existing under the laws of the State of Illinois, with its principal place of business located at 33 E. Palatine Road, Prospect Heights, Illinois.

JURISDICTION AND VENUE

3. Western National brings this Petition pursuant to Fed. R. Civ. P. 57 and the Declaratory Judgment Act, 28 U.S.C. §2201(a), and provide for the filing of matters seeking declaratory relief.

4. This Court has jurisdiction of this civil action pursuant to 28 U.S.C.2201 which provide for the filing of matters seeking a declaratory relief. §1332(a)(1), in that Respondent seeks indemnity damages in excess of \$75,000 under the Policy, and this action is between citizens of different states.

5. For jurisdictional purposes, Petitioner is a citizen of Minnesota while Respondent is a citizen of Illinois.

6. On December 5, 2024, Respondent provided a Sworn Statement in Proof of Loss, in which it claimed \$709,432.02 as the amount of the purported loss or damage, under the Policy.

7. Venue is proper in this district pursuant to 28 U.S.C. 1391 (a)(1) and (a)(2), in that the acts and claim activity occurred, and the subject real property giving rise to this action are situation within Cook County, Illinois, which lies within the geographical boundaries of the United States District Court for the Northern District of Illinois.

8. This matter is ripe for adjudication as there is an actual and justiciable controversy between the parties as to the amounts owed, if any, under the Policy.

FACTUAL BACKGROUND

9. Western National issued to Respondent a commercial insurance policy number CPP 1211142 03 with an effective policy period from April 24, 2022 to April 24, 2023 (the “Policy”). (A certified copy of the Policy is attached and incorporated as Exhibit A).

10. The Policy provides insurance, subject to its terms, conditions, exclusions and endorsements, for Quality Truck’s business, business personal property and the structure located at 33 E. Palatine Road, Prospect Heights, Illinois 60070 (the “Loss Location”).

11. The Policy contains an “appraisal” provision which, in part, provides:

3. *Appraisal*

*If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. **If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction.** The appraisers will state separately the value of the property, they will submit their differences to the umpire.******

If there is an appraisal, we will still retain our right to deny the claim.

12. On or about October 14, 2023, Respondent, through its retained public adjuster, Supreme Adjusting, LLC, notified Western National that on April 4, 2023, the Loss Location sustained damage as a result of windstorm.

13. In October 2023, Western National inspected the Loss Location, and determined that the Loss Location did not sustain damage due to wind or hail on or about April 4, 2023.

14. Almost a year later, on September 17, 2024, Respondent, through its retained public adjuster, “reach[ed] out in regard to this previously opened claim,” and provided a

report from Highland Engineering, PC, dated September 13, 2024, based on an inspection on July 25, 2024, which concluded, in part, that the roof at the Loss Location needed to be replaced as a result of hail damage from an April 4, 2023 hailstorm.

15. Western National retained Nederveld, Inc., who inspected the Loss Location on November 20, 2024, and concluded that the Loss Location did not sustain direct physical loss as a result of a claimed storm on April 4, 2023.

16. On October 10, 2024, Western National advised Respondent that it had determined that the Loss Location did not sustained damage due to wind or hail on or about April 4, 2023.

17. On October 21, 2024, Respondent, through its public adjuster, invoked the Policy's appraisal clause, and designated Charlie Mitas, of Precision Claims, Inc., as its appraiser.

18. On October 22, 2024, Respondent, through its public adjuster, changed its appraiser to Erik Jaske, Engle Martin.

19. On October 24, 2024, Western National designated David Balistreri, Building Envelope Consultants, Ltd., as its appraiser.

20. On October 29, 2024, Respondent, through its public adjuster, changed its appraiser to Kamil Mozwecz, AIC Appraiser.

21. On November 1, 2024, Western National provided a list of five (5) umpire candidates, all of which were unreasonably rejected by Respondent's appraiser.

22. On November 4, 2024, Respondent provided a list of six (6) umpire candidates, including one of Respondent's previously designated appraisers, which were rejected by Western National's appraiser.

23. On or about April 4, 2025, the parties entered into a Tolling Agreement, in which the parties agreed to extend the "Legal Action Against Us" provision in the Policy to July 25, 2025, in part, to complete the appraisal process with respect to the claim.

24. The parties' appraisers have exchanged the names of additional umpire candidates but they have been unable to agree on an umpire.

25. On April 13, 2025, Respondent's appraiser advised Western National's appraiser that the parties "have reached an impasse."

26. Because the appraisers have been unable to agree on an umpire, Western National respectfully petitions the Court to appoint an umpire. While there is no requirement that a court-appointed umpire have expertise in the specific subject matter of the appraisal, having an umpire with subject matter expertise improves the efficiency and efficacy of the appraisal process. Western National, therefore, respectfully asks that the person appointed as an umpire by the court have significant background, knowledge and experience in construction matters, with commercial property insurance issues/disputes generally, and particular knowledge regarding wind/hail storm coverage disputes.

27. Western National requests that the selection be made from the following three
(3) potential umpire candidates:

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|------------------------|-------------------------------|---|
| Joseph Royster | Weber Gallagher | https://www.wglaw.com/attorney/joseph-b-royster/ |
| Thomas Hutchinson | Hutchinson Design Group, Ltd. | https://hutchinsondesigngroup.com/about-us/ |
| Jon Boldebuck, CIA/CIU | Wisconsin Adjustments, Inc. | https://wisconsinadjustments.com/ |

28. Each of the above-proffered umpire candidates has experience with large property damage claims, including claims for storm damage to structures.

29. None of the above-proffered candidates have any conflict with Respondent, Respondent's public adjuster, Western National, or either appraiser.

WHEREFORE, Petitioner, Western National Mutual Insurance Company, respectfully requests that this Court grant its petition and select one of the three proffered candidates to serve as umpire for the appraisal, and for any and other further relief as this Court deems just and equitable.

Respectfully submitted on May 27, 2025.

Law Offices of Amy E. Johnson, PLLC

/s/ Amy E. Johnson

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